

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, ) Case No. 2:20-cr-00146-WFN-1  
)  
Plaintiff, ) June 7, 2023  
) Spokane, Washington  
vs. )  
) Sentencing Hearing  
JAIDEN GYVAN PETERSEN, )  
) Pages 1 - 44  
Defendant. )

BEFORE THE HONORABLE WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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1 (Court convened on June 7, 2023, at 11:00 a.m.)

2 THE COURTROOM DEPUTY: *United States of America versus*  
3 *Jaiden Gyvan Petersen*, Case No. 2:20-cr-0146-WFN-1; time set for  
4 sentencing. Participating by listen-only mode is Probation  
5 Officer Carrie Valencia.

6 Counsel, please state your presence for the Court and  
7 record, beginning with the government.

8 MS. GREGOIRE: Good morning, Your Honor. Alison  
9 Gregoire for the United States.

10 THE COURT: Good morning, Ms. Gregoire.

11 MS. RUBIN: Good morning, Your Honor. Amy Rubin on  
12 behalf of Mr. Jaiden Petersen, who is seated beside me today at  
13 counsel table, and also joining me at counsel table is Brenda  
14 Challinor.

15 THE COURT: Good morning, Ms. Rubin, Mr. Petersen,  
16 Ms. Challinor; good to see you.

17 This is the time set for the sentencing, and the Court has  
18 reviewed the presentence report prepared by Ms. Valencia, who is  
19 on the phone, as Ms. Knutson mentioned. I think she's in her  
20 office in Yakima. Also, the Court has reviewed the briefing by  
21 the government as well as the brief submitted by Ms. Rubin on  
22 behalf of Mr. Petersen, and the Court's reviewed, of course,  
23 that presentence report as well as the plea agreement itself.

24 And for the benefit of those in the courtroom, the plea  
25 agreement is basically a contract that was entered into between

1 the government and Mr. Petersen, the defendant. And this is  
2 what we call an 11(c) (1) (C) agreement, which means that the  
3 parties have agreed that a sentence imposed within a designated  
4 range of months would be an appropriate sentence. Then it's up  
5 to the Court to decide, first of all, whether or not the  
6 agreement is reasonable; and, second of all, if the Court  
7 determines it is reasonable, what the sentence should be within  
8 that range. And for the record, I should say that the Court  
9 feels the plea agreement is reasonable and accepts it.

10 So let's talk about the presentence report. That is a very  
11 detailed report that Ms. Valencia prepared. It's very well-  
12 done, and it goes in great detail into the background of this  
13 case, great detail, as well as the background of the defendant  
14 himself. Copies of the presentence report were given to the  
15 government, to Ms. Rubin on behalf of the defendant, and I hope  
16 that the defendant was given the opportunity to read it and  
17 review it, and I'll ask him about that in a moment.

18 First, I want to make sure that if there are any objections  
19 to the report that we talk about it.

20 Now, Ms. Gregoire, I'm not aware of the government having  
21 filed any formal objection to the content of the presentence  
22 report. Are there any objections to it?

23 MS. GREGOIRE: No, Your Honor.

24 THE COURT: Ms. Rubin, same question to you. No  
25 objection filed. Are there any objections that you'd like to

1 bring to the Court's attention?

2 MS. RUBIN: There are none. Thank you.

3 THE COURT: Did you see that Mr. Petersen had a chance  
4 to review the presentence report?

5 MS. RUBIN: Yes, he has reviewed the document.

6 THE COURT: Did you read it, Mr. Petersen?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Speak up, please.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have any objection to the content  
11 of the presentence report?

12 THE DEFENDANT: No.

13 THE COURT: All right. Now, normally on a sentencing,  
14 I suggest that the defense counsel express his or her reason and  
15 suggestion as to the appropriate resolution of the case followed  
16 by the government and then ask to hear from the defendant.

17 But according to the briefing, Ms. Gregoire, you indicate  
18 you have some witnesses to call or some people that want to  
19 visit.

20 So I ask Counsel should we reverse the order and ask the  
21 government first and then you, Ms. Rubin, follow up?

22 MS. GREGOIRE: Your Honor, just with respect to the  
23 witnesses, we have present in the courtroom Minor 1's mother and  
24 father as well as grandmother, and they are all aware of their  
25 right to speak. They are having a very emotional day, as the

1 Court can well imagine. At this time, they have relayed  
2 comments that they would like the attorney for the United States  
3 to make on their behalf rather than make those comments  
4 themselves. I told them that this Court would be receptive if  
5 they change their minds as the hearing is going on.

6 THE COURT: Well, that's absolutely the case,  
7 Ms. Gregoire, and I'm glad the subject of victims comes up. I  
8 trust that all victims in this case have been advised of this  
9 hearing and have been given the opportunity to attend and share  
10 their thoughts. Is that the case?

11 MS. GREGOIRE: Yes, Your Honor.

12 THE COURT: All right. And for those people that are  
13 in the courtroom, I understand what Ms. Gregoire said, and I can  
14 understand a hesitation to come forward and speak. But if any  
15 of you feel that you would like to do so, feel free to do so.

16 And Ms. Rubin, if there's anyone that you feel should speak  
17 on behalf of Mr. Petersen, the same applies to you.

18 MS. RUBIN: Thank you.

19 THE COURT: So then let's go back. If anybody wants  
20 to speak, now would be a good time, but if --

21 Ms. Gregoire, do you sense that anybody would like to come  
22 forward at this time?

23 MS. GREGOIRE: Your Honor, I think that I will -- we  
24 actually, I think, lost one of the people to emotions already,  
25 Your Honor. I -- I can make comments; and then to the extent

1 they think I've left something out, I'd like to afford them the  
2 opportunity to supplement.

3 THE COURT: Well, let's proceed this way, then.

4 Ms. Gregoire, on behalf of the government, you speak first as to  
5 your recommendation as to the appropriate resolution of the case  
6 and fill in with the background that you've alluded to.

7 Then we'll hear, Ms. Rubin, your position regarding the  
8 appropriate resolution of the case, and then I'm anxious to hear  
9 from Mr. Petersen.

10 MS. GREGOIRE: Your Honor, may I confer with Counsel?

11 THE COURT: Yes.

12 (Off the record.)

13 MS. GREGOIRE: Thank you, Your Honor. As the Court  
14 noted, there have not been objections to the PSIR, but I do  
15 think that it's worth reflecting just a moment on what that  
16 document says in terms of guideline. Defendant is a 44 for a  
17 total offense level. It's reduced to 43 by virtue of the  
18 operation of the guidelines because the guidelines don't go as  
19 high as 44. That would leave him at a sentence to life under  
20 the guidelines, but it's reduced further because of the  
21 statutory maximums for his offenses; so we have a statutory  
22 maximum of 60 years.

23 The government intends to recommend that this Court impose  
24 a sentence of 20 years of imprisonment; so one-third of the  
25 guideline, which has already been reduced twice, as I indicated,

1 and the government maintains that is not too much given what  
2 Mr. Petersen has done in this case. The government's also  
3 asking for a lifetime of supervised release and restitution, as  
4 detailed in the PSIR but just to be clear, of \$14,400 to Minor 2  
5 for counseling services and \$3,000 to each of three series  
6 victims, as indicated in Paragraphs 33 to 35 of the PSIR, those  
7 being Fiona, Jenny, and Tara.

8 THE COURT: Now, you said 3,000 for each of the three  
9 for a total of nine?

10 MS. GREGOIRE: For a total of nine for the series  
11 victims and then 14,400 for Minor Victim 2.

12 THE COURT: And if I understand it correctly, there's  
13 been only one restitution request made other than the series  
14 victims.

15 MS. GREGOIRE: That is correct, Your Honor.

16 THE COURT: Now, is the period of restitution filing  
17 left open for 90 days?

18 MS. GREGOIRE: It can be, Your Honor. We have not  
19 received a request to leave it open.

20 THE COURT: All right. Go ahead.

21 MS. GREGOIRE: Your Honor, again, the United States is  
22 recommending 20 years and does believe that's sufficient for  
23 several reasons that I want to make out. I want to make clear  
24 at the outset because the victims who are present in court  
25 desire to make clear to the Court they do not believe that

1 20 years is enough time. To the extent that the Court has  
2 already accepted -- the Court is going to accept the plea  
3 agreement, they are advocating for the high end of that  
4 agreement. But at the time the government negotiated the plea  
5 agreement, at the time the government has indicated the  
6 government is asking for 20 years, at all times they have  
7 maintained that is -- that is insufficient for their purposes.  
8 They believe that more time would be appropriate, and so I  
9 wanted to get that onto the record on their behalf.

10 Your Honor, this case stemmed from a cyber tip. So it was  
11 Snapchat, in this case, indicated to NCMEC, or the National  
12 Center for Missing and Exploited Children, that there was child  
13 pornography going over Snapchat servers and that it was coming  
14 from Mr. Petersen's account. So having received that  
15 information, law enforcement -- and incidentally, the case  
16 agent, Andrew Booth of the FBI, also present and in Court today  
17 -- obtained a search warrant; and at the time they executed that  
18 search warrant, they got a chance to talk to Mr. Petersen. And  
19 Mr. Petersen, during that interview, indicated, yes, that  
20 Snapchat account was his; yes, he had been receiving and  
21 distributing child pornography for years.

22 They seized his electronic devices at that time, and they  
23 subsequently reviewed those forensically, and the FBI found over  
24 a thousand images of series child pornography and found  
25 additional videos of series child pornography and reviewed



1 those, but they also -- and they also found just in that child  
2 pornography that the defendant did not produce, they found  
3 another local victim that was prosecuted in the -- his case was  
4 prosecuted in the Eastern District of Washington. So Defendant  
5 was also trading locally with other pedophiles.

6 But in addition to all of that, they found images the  
7 defendant made. They found images that the defendant made of  
8 three separate children, and those are the production counts,  
9 two of which are before the Court, one of which is not, and I  
10 want to explain that as well. So when they found these images  
11 that the defendant produced himself, they found two teenagers,  
12 who I'll talk about that he's pled to, as well as a six-year-  
13 old.

14 THE COURT: As well as a what?

15 MS. GREGOIRE: Six-year-old. And Your Honor,  
16 Defendant produced those images of the six-year-old, to whom he  
17 is related, when he was just shy of 18 years old, and that is  
18 why the Court has a global resolution before it, because that  
19 juvenile misconduct -- although he was not long from becoming an  
20 adult, that juvenile misconduct is being prosecuted by the state  
21 because that's when he produced those images of his six-year-old  
22 niece. But those images that he produced as a juvenile he  
23 distributed as an adult. Those images that he had produced of  
24 his niece, he subsequently sent on to other people as an adult.

25 So the reason why I note all of this is because that

1 information is properly before this Court. That information is  
2 properly before this Court to consider. And I also note that  
3 the state sentence as pertains to that six-year-old, pursuant to  
4 the global resolution, is going to run concurrent to this  
5 Court's sentence. So this Court can properly consider that and  
6 can consider Defendant's relationship with that child, which I'd  
7 like to speak to in a minute.

8 With regard to the other two, the other two teenagers, they  
9 were 13 years old and 14 years old respectfully at the time that  
10 the production occurred. The older child was a person that  
11 Mr. Petersen knew personally and had contact with. The 13-year-  
12 old was a child that Mr. Petersen met on Xbox Live. And for  
13 both of these children, he asked them to produce images of  
14 themselves, nude images of their genitalia, images -- videos of  
15 them masturbating, and they complied, and Mr. Petersen was found  
16 to be in possession of all of that material that had been  
17 produced at his behest.

18 Your Honor, I want to make four points with respect to the  
19 sentence that's appropriate in this case in turn, and then I'll  
20 elaborate. First, Defendant abused a position of trust to gain  
21 access to arguably his most vulnerable victim, to a six-year-old  
22 victim. He was willing to abuse a position of trust. Second,  
23 Defendant abused two vulnerable teenage victims, who he knew to  
24 be vulnerable teenage victims. Third, Defendant maintained this  
25 course of conduct not for an instant, not for a day, not for a

1 week, not even for a year, but for an extended period of time;  
2 and fourth, the need for strong deterrence in a case,  
3 specifically such as this, and what it will take to establish  
4 deterrence given these factors.

5       Turning first to the abuse of trust with respect to a most  
6 vulnerable victim, Your Honor, this was Defendant's relative.  
7 This is his brother's daughter. And Defendant's brother had  
8 Defendant living with him because he had nowhere to go. And in  
9 exchange for that kindness of letting the defendant come in and  
10 letting him live with their family, he took advantage of his  
11 position and created child pornography images of their six-year-  
12 old daughter.

13       And Your Honor, the willingness to abuse a position of  
14 trust for such a vulnerable young person cannot be overstated.  
15 That is very significant misconduct unto itself. Before you get  
16 to Defendant's years of trading child pornography, before you  
17 get to the production with teenagers later on, that he was  
18 willing to do this to a family member, having been shown a  
19 kindness by his family, is very concerning and, the government  
20 maintains, should be very concerning for this Court.

21       Defendant took images of this child of her unclothed groin,  
22 of him pressing his erect penis against the sleeping child. He  
23 morphed her face onto other images of existing child  
24 pornography, and he disseminated images of this child. Child  
25 pornography images of this child were sent on to other people.

1       And Your Honor, one of the people that these were sent to  
2 was a teenage victim of the defendant, and I want to talk first  
3 about Minor Victim 2, who was 14 years old when the first images  
4 were produced. And Defendant, through the chat, makes obvious  
5 he knew she was 14. She reports that he had stated he liked  
6 that she looked so young. He asked her for nude pictures and  
7 videos of her masturbating, and she complied, and Defendant was  
8 found in possession of those materials.

9       Defendant, through Xbox Live, met Minor Victim 3, who was a  
10 troubled 13-year-old. She was in middle school. The defendant  
11 knew she was in middle school and knew she was 13 because she  
12 told him, and I believe he had even commented that he had gone  
13 to that same middle school. He said he could get in trouble for  
14 talking to someone who was so young. He said he could get in  
15 trouble for meeting her, but he did ask to meet her repeatedly.  
16 Luckily, she did not agree to meet with him.

17       And Defendant did not do this, Your Honor, as a lapse in  
18 judgment or as an ethical slip. Defendant did this for years.  
19 This is not a brief moment in time. This is a course of  
20 misconduct. He said he had been viewing child pornography since  
21 he was 12. He said he had last viewed child pornography  
22 approximately two days prior to the search warrant being  
23 executed in this case.

24       So this has gone on for a long time, and he had over a  
25 thousand images and videos that he did not produce that included

1 bondage with respect to these children and urination and  
2 bestiality, and those victim impact statements have been  
3 included in the presentence investigation report, and I will not  
4 repeat all of them here. I summarized some in our sentencing  
5 memorandum, but they talk about the impact, Your Honor, and what  
6 this Court can anticipate is the impact to victims of production  
7 of child pornography.

8       They talk about -- these kids talk about how they -- they  
9 have great concern when they're just walking down the street;  
10 that if anyone does a double-take at them, it's because they  
11 assume that person saw them being raped on the internet. And  
12 they talk about how living like that causes them to not trust  
13 anyone and to fear everyone that they don't have a previous  
14 relationship with. And this impact is great, and this impact is  
15 lasting, and he contributed to the impact on these series  
16 victims, and he created new victims himself.

17       And all of that is tremendously serious, Your Honor,  
18 because as long as he was -- he was viewing/receiving/  
19 distributing child pornography, he was also producing it for at  
20 least three years that the government can show, and that is also  
21 very significant. Again, this is not a slip. This is not a  
22 brief error. This is a course of conduct. This is a person who  
23 has a sexual interest in children that they are unable to  
24 control, and that moves the government to its next point, the  
25 need for strong deterrence in this specific case.

1        This defendant in his young life has amassed thousands of  
2 images of series child pornography. He has created three  
3 production-of-child pornography victims, and this is  
4 tremendously serious given the time frame that we are talking  
5 about. And the government maintains it will take something very  
6 significant to deter additional misconduct in a case such as  
7 this, and the government is asking for a very serious sentence  
8 here, and the government does not do so lightly. Twenty years  
9 is serious, but it is not too much for someone who has committed  
10 this much misconduct, this level of misconduct.

11        Now, the defendant provided materials to the Court through  
12 Counsel that detail the defendant's own mitigation and that he  
13 had a very rocky childhood himself, and the government has taken  
14 that into consideration. And the government, as this Court can  
15 draw on its own knowledge and experience, has often requested  
16 more than 20 years in similar circumstances. The government has  
17 absolutely considered Defendant's mitigation, but anything less  
18 than 20 years would be insufficient to meet the level of harm  
19 here with multiple production victims, with three -- excuse me,  
20 with multiple production victims and with many, many more  
21 victims still in terms of the child pornography that he was  
22 exchanging.

23        The government believes that 20 years will not cause a  
24 disparity in sentencing but instead is entirely appropriate in  
25 this case. The government asks for the 20 years as well as the

1 lifetime of supervised release, which is also recommended under  
2 the guidelines, as well as the restitution that I previously  
3 spoke to. And unless the Court has questions for me, I will  
4 just check with -- I apologize. Go ahead, Your Honor.

5 THE COURT: No questions.

6 MS. GREGOIRE: And I will just -- may I have just one  
7 moment?

8 THE COURT: You may. Yes, you can.

9 (Off the record.)

10 MS. GREGOIRE: And Your Honor, the victims present  
11 have been consulted with, and they do not desire to make an oral  
12 statement to the Court at this time. Thank you.

13 THE COURT: Thank you.

14 Ms. Rubin.

15 MS. RUBIN: Thank you. Your Honor, before I get  
16 started, I do actually have a video I'd like to play for the  
17 Court. Mr. Petersen's sister was available for the last  
18 hearing, but it is very hard for her to get off of work; so she  
19 had taken day off, and then I know we had to postpone it. So  
20 she has asked if we could play this video. I informed  
21 Ms. Gregoire this morning.

22 We received the video last night. It was in pieces just  
23 because you cannot send that big of a video -- I think it's  
24 about ten minutes or so -- and then we just simply put her clips  
25 together, and we've made a video. And if I could play that now,

1 I would like to do so, and then I can make my presentation for  
2 it.

3 THE COURT: You may.

4 MS. RUBIN: Thank you. And when I say "me," I  
5 actually mean my colleague, Martin, because I know nothing of  
6 what to do up here.

7 (Video played.)

8 MS. RUBIN: Your Honor, it's interesting because when  
9 I thought about what I was going to say to the Court even before  
10 we got this video last night, the first thing I thought of was  
11 he never really stood a chance against the system. I think if  
12 there's anything that we take from certainly what we know that  
13 these young children were exposed to and the life that they  
14 experienced, I think that there is absolutely no doubt that  
15 whatever consequences may occur, Jaiden recognizes that that is  
16 going to be an important piece of this, but I think what is  
17 equally, frankly, as important is the treatment that follows.

18 I had a conversation with Jaiden yesterday when he just  
19 arrived back to Spokane, and it was interesting. He had just  
20 arrived back to Spokane. We let him know we were going to try  
21 to see him last night at the Spokane County jail, and as Sierra  
22 so just, I mean, appropriately said, the last question that  
23 Jaiden asked me on the phone was, "Well, how are you, Amy? How  
24 are you doing?"

25 There is kindness in this young man's heart. There is good



1 in this young man's heart. Obviously, what has happened in this  
2 case is horrific. There is no one in this courtroom, frankly,  
3 that feels, I think, worse than Jaiden Petersen.

4 I came into this case about three-and-a-half years ago, I  
5 think, actually before Ms. Gregoire had brought this case  
6 federal, and I was reached -- I was contacted by the public  
7 defender who represents Mr. Petersen, Jaiden, at the state  
8 level, Jeff Leslie. And I remember he walked out of the -- he  
9 was walking out of the jail and I was walking in. He said,  
10 "Amy, I have a young man and I think this case may go federal,  
11 and I hope that you will jump on board because I think this  
12 young man really needs some help. He has been through an awful  
13 lot, and we need to figure out a way to help him." And so even  
14 before we got this case before this Court, I was visiting with  
15 Mr. Petersen.

16 And I will tell you that three years ago -- I think it's  
17 been 36, 37 months -- from the outset, from the beginning of  
18 this case, he has always said, "I want help, and I need to  
19 understand why this happened. I need to understand how this  
20 happened because I am not a bad person. I did not mean to do  
21 bad things. I just need to understand how to get better." And  
22 so I applaud him for that because that has been three years.  
23 That is not just standing and talking -- talk to the Court,  
24 hoping that this Court will give him the sentence that we are  
25 requesting. That has been ongoing from day one.

1 But this Court also knows that those treatment options are  
2 very limited, and they really don't exist. Perhaps you can call  
3 mental health and say, "I can't sleep well." Perhaps you can  
4 call mental health and say, "I'm having bad dreams." Perhaps  
5 you can call mental health and say, "I'm feeling down today,"  
6 and they'll give you a pill and that's the extent of it. So  
7 there is no treatment. So to get better, we are going to have  
8 to get that treatment.

9 I don't want to belabor this because I think this Court is  
10 so incredibly well-educated, and -- and I think Ms. Gregoire  
11 would agree with me. We have all seen the statistics. We have  
12 all seen the research. We know that young people's brains don't  
13 develop until their mid 20s. And the fact that much of what  
14 occurred in this case happened when this young man was in his  
15 teens and then into perhaps just when he had turned 20, I think  
16 we have to be cognisant of the fact that his brain, probably not  
17 fully developed. We also know there were delays in school, and  
18 we also know that he suffered from severe trauma.

19 So with all that said, I ask the Court to keep that in mind  
20 as we go through this process to determine what this Court  
21 believes is the appropriate sentence. I know on paper it's easy  
22 to say, "You've done awful things and you are an awful person."  
23 And as I said, there's no one who feels worse about this than  
24 Mr. Petersen. But I'm also asking this Court to be mindful that  
25 this young man has so many other things that he has experienced

1 that I truly believe led to this behavior, and I truly believe  
2 that with the right treatment and with a sentence that  
3 incorporates not only consequences but treatment, we can get him  
4 to a place that he feels as good about his life and as good  
5 about his progress as we saw with his sister, because what we  
6 saw with her is it's possible.

7 THE COURT: Do you have an institution in mind?

8 MS. RUBIN: I do. I do. And I'm going to talk about  
9 that, and I'm happy to share with the Court. That institution,  
10 actually surprisingly, Your Honor, is FMC Bevens -- Devens. I  
11 apologize. It's in Massachusetts, and it is actually primarily  
12 a facility for sex offenders. But what's wonderful about Bevens  
13 -- or Devens -- I apologize -- that is a little different than  
14 what we've seen with, let's say, Englewood is that Devens has a  
15 residential sex offender treatment program. Englewood, on the  
16 other hand, has a nonresidential treatment program.

17 What's the difference? The difference is a residential  
18 program is going to be far more intense. It's going to take  
19 about 12 to 18 months to complete. It's usually three to four  
20 days a week. Whereas the nonresidential is maybe a couple of  
21 days a week, doesn't take as long to finish, and is not as  
22 intensive. And I think in this case, we need the intensive  
23 component of it.

24 What else does FMC Devens offer? It offers a culinary  
25 program. It offers actually some other computer programming,

1 but it also offers GED classes, which I know that Mr. Petersen  
2 is anxiously awaiting to complete his GED and get that done. So  
3 we will be recommending Devens as placement in this particular  
4 case.

5 I want to tell the Court that when we ordered the CPS  
6 records, I have received to date about eleven to twelve hundred  
7 pages. And in that 1,200 pages, that only went from the time  
8 that Jaiden was about a little shy of two until he was nine; and  
9 we just asked CPS at that point in time to kind of stop because  
10 we had seen so many records, we were certainly familiar with  
11 what was going on, but I want to share with the Court just a  
12 couple of things.

13 On August 23rd, 2002, the referrer indicated the individual  
14 who went out to check the house -- and let me just say this,  
15 Your Honor. Mr. Petersen's mom is in the courtroom, and I  
16 certainly don't want to in any way disparage her because life  
17 was hard for this entire family. I'm going to talk about some  
18 hard things, and it's not my intent to embarrass or to hurt  
19 someone's feelings, because his mother is clean and sober now  
20 and that is something to be incredibly proud of. So as I go  
21 through this, please, I don't want anybody to think I'm trying  
22 to be disrespectful, but I think it's important for the Court.

23 In August of 2002, the notes say the home is constantly  
24 filthy with inappropriate dangerous items left within the reach  
25 of a smaller boy, this young man right here. There have been

1 two incidents in the last seven to ten days. The mother was  
2 home, in the home not watching the children. Jaiden jumped off  
3 something and cracked his head open. Initially, the mother  
4 refused to take him to the hospital. However, police responded  
5 and insisted. Jaiden needed stitches. The mother and the  
6 individual at the time who was living in the home, the father of  
7 one of the kids, Greg Smelcer, they drink; they fight; and on  
8 many occasions, police have responded. The worker completing  
9 this referral is very concerned for the welfare of the kids due  
10 to the mother's lack of supervision of the children and basic  
11 lack of parenting skills. Investigation, no removal of these  
12 children.

13 In September of 2002, a sergeant from Spokane law  
14 enforcement contacted aftercare -- after-hours care requesting  
15 placement for the children. The mother was drunk on the couch.  
16 The house was a pit, and she had been on a binge for days, no  
17 food in the house. There have been three CPS calls this past  
18 week. Jonathan, his older brother, was not there because he was  
19 adopted by their maternal grandmother, the same grandmother who  
20 put Jaiden and Sierra in a basement with canned food and told  
21 them they could eat if they could open the cans.

22 They tried to place Jaiden with his grandmother and James  
23 Ervin, who is his father, but they will not be an appropriate  
24 placement. Grandmother was contacted, said Jonathan was with  
25 her and had been with her since his birth. He had never been

1 with Marci. Jaiden and Kaitlyn at that point in time were  
2 placed with a provider for a short period of time.

3 In July of 2003, a referrer indicated that a child came to  
4 daycare with two bruises with a bit of a scrape by his right eye  
5 above about the size of a thumb. He said his mom "hit me."  
6 "She hit me. She was mad and she hit me." Only an  
7 investigation.

8 In March of 2004, Jaiden is five years old. The referrer  
9 says -- the person who's contacted CPS, presumably a neighbor --  
10 Jaiden always goes to the bathroom outside on a daily basis.  
11 She's concerned because he's playing in the street. Nevada is a  
12 busy street. He played in the street throughout the weekend.  
13 She heard the father of one of the kids, this guy Greg, telling  
14 Jaiden he was going to bash his head in.

15 In April of 2004, just a month later, Jaiden is just a  
16 little -- again, five years old. Police have now been to  
17 Marci's house three times, first came due to a DV incident that  
18 involved their uncle and a girlfriend. The uncle was arrested  
19 and removed from the home. Police came back a second time  
20 because the DV victim had overdosed using drugs and alcohol  
21 along with his mother, Marci. The aunt had to be taken to the  
22 hospital. Marci was left alone with her own children. Police  
23 came back and discovered she was intoxicated, no food in the  
24 home. They determined the home was not clean enough for the  
25 children and Marci was not able to care for her children. Just

1 two months later, five-and-a-half years old, he's found riding  
2 his bike on Nevada Street.

3 In July of that year, he's not being supervised by -- in  
4 the home because of drug use, unsanitary living conditions.  
5 Someone is watching two children leave the house drinking beer,  
6 and they are approximately two and four years old. Four days  
7 later, Nathan was at home, the older brother, yelling at his  
8 brother -- yelling at Jaiden, who was being sexually abused by a  
9 neighbor kid.

10 November of 2004, it is reported that one of the brothers  
11 may have exposed himself to Jaiden and another five-year-old in  
12 the neighborhood.

13 In March of 2005, Jaiden is at the foster placement. He is  
14 yanked off the top of his bunk bed by his arm. He was pushed  
15 into a wall by the foster mom because he couldn't find his other  
16 shoe, and he had a knot on his forehead, and he had begun  
17 wetting the bed nightly and urinating on the bedroom floor.

18 In June of 2006, he's now seven-and-a-half years old. CPS  
19 takes him from his mother in January of 2006, gives him to his  
20 father because -- and this is the same father who's put him in a  
21 highchair, and he and the girlfriend thought it was funny to  
22 vacuum him -- because she was using drugs and alcohol, not  
23 supervising Jaiden. The referrer says, "Father has abandoned  
24 Jaiden. Return him to his mother," two days later.

25 He had been observed riding his bike on Francis with no

1 helmet. He continues to use the bathroom outside, and the  
2 referrer -- Jaiden told the referrer that his mother and  
3 boyfriend have sex in front of him in their bedroom, and  
4 sometimes Jaiden takes a bath with his mom and "plays with her  
5 boobs in the bathtub."

6 In September of '06, Marci is drinking alcohol and abusing  
7 controlled substances, and they don't believe that there's any  
8 condition to provide -- she's in any condition to provide  
9 supervision or care for her son Jaiden. The referrer again sees  
10 Jaiden running up and down the street. He's outside. It's  
11 9:30 p.m. He's observed yet again going to the bathroom  
12 outside, and the referrer says that Marci, the mother, is now  
13 purchasing alcohol for teenage children, and she's drinking and  
14 driving with children in her car.

15 October of 2006, younger children -- presumably Jaiden and  
16 his younger sister Kaitlyn -- observed outside throwing rocks  
17 and jumping off a car parked on a busy street. The kids went  
18 inside after that, and the referrer goes to the home and hears  
19 the children yelling, "Don't stab me. Don't stab me. I'm  
20 cold." The referrer observed the living conditions. Home  
21 smelled of dog urine and marijuana, garbage and beer bottles  
22 covering the floor. A woman is passed out on the couch. The  
23 children all have dirty clothing on, and the young boy, Jaiden,  
24 tells her that the older child -- the older brother is trying to  
25 stab him with a knife.



1 November of 2006, Marci and now her mother, the  
2 grandmother, are living together. A restraining order is taken  
3 out against Marci's boyfriend. The past summer, Jaiden reports  
4 to the CPS worker that he had watched the boyfriend -- and I  
5 quote from the report -- "finger-bang his mom in the living  
6 room." And then the grandmother takes the children out of the  
7 room while Marci and her boyfriend, the mother, are using drugs  
8 in another room.

9 By November of 2007, there are 32 referrals to CPS, and the  
10 notes are that Marci is leaving drugs and paraphernalia in the  
11 children's reach and presence. She's described as having sores  
12 all over her face. She's having her 17-year-old, presumably  
13 Nathan, pick up the kids and take them in a vehicle. He has no  
14 license, no -- no insurance, no car seats. Jaiden is eight, and  
15 Kaitlyn is four-and-a-half.

16 In 2008 in March, Nathan is 18 and apparently living at the  
17 home. Referrer says that he has drugs and paraphernalia in the  
18 reach of his siblings. Marci knows, will not do anything.  
19 Marci is pregnant again, and all kinds of traffic are in and out  
20 of the house.

21 By 2008, there are 43 referrals. Marci is the subject of  
22 17. And what the referral summarizes, lack of supervision,  
23 filthy house, lack of basic needs, mom's drug use, inappropriate  
24 sexual conduct by siblings and mother. Mother has been found  
25 drunk on the couch on binges, no food in the house.

1 In 2009, a new baby is born, Elijah. Multiple adults are  
2 in the home using drugs. Jaiden and his sister are exposed to  
3 this. Now the new baby is exposed to this. Jaiden and Kaitlyn  
4 are outside running around, no adult supervision.

5 These were just some of the incidents with CPS in eleven  
6 CPS installments with 1,159 pages, and we stopped, and this only  
7 covered Jaiden until he was nine. There are at least nine more  
8 years of CPS involvement that we don't even have because the  
9 records were so overwhelming.

10 So one wonders would we be in this situation today if, like  
11 Sierra, he had been adopted by a good family who recognized the  
12 need for counseling and treatment? One wonders if just at some  
13 moment in time after 43 times that CPS responded to this house  
14 when this young man was nine years old, would we be here today?  
15 I don't know that we would. This young man has endured trauma.  
16 And I am not suggesting that the other kids haven't, but there  
17 is a distinction, and that distinction is this.

18 He was always -- with the exception of a few different  
19 times where he was placed with foster care or a couple of times  
20 when his father decided to be a dad and take responsibility but  
21 couldn't handle it and gave him back two days later -- he was  
22 with his mom. Nathan was already out of the house. Jonathan  
23 was adopted by his maternal grandmother, and Sierra was living  
24 with this foster care placement more often and then ultimately  
25 adopted by this woman who used to see these young kids, Jaiden

1 and Sierra, go to school in the snow with no shoes on because  
2 there was nothing to provide for them.

3       So while, yes, I don't disagree with Ms. Gregoire that  
4 consequences are absolutely vital to this case, there is also a  
5 purpose and a need for rehabilitation and treatment; and in many  
6 ways, I think it's even more necessary, knowing what we know  
7 about this young man and the things that he has gone through.  
8 He doesn't know how to have healthy relationships, and I think  
9 we can understand why. He, of course, seems to gravitate  
10 towards younger people in their teenage years, and I think it  
11 makes sense now that we know the history of his exposure to  
12 sexual abuse by family members, to sexual trauma by family  
13 members, to physical abuse, to neglect. So I think it becomes  
14 more apparent that in this particular case why treatment is  
15 going to be such an important piece of this.

16       So I don't know where we would be if perhaps CPS had done  
17 their job and perhaps a better job, but we are here today. But  
18 as Sierra said, she is a living example that you can make  
19 changes. You can -- with treatment, people can get better. And  
20 this Court has absolutely seen that in its own, you know,  
21 experiences with people who come before the Court who have done  
22 substance abuse treatment and mental health. Treatment works.

23       And you have someone who wants to engage in it, and you  
24 have someone who has wanted to engage in it since the moment he  
25 came into custody and said, "I want help. I don't understand

1 why I've made the decisions I've made. How do I get help  
2 because I want to live a healthy life. I want that. I don't  
3 want what I've had over the last 21 years. I want something  
4 good. I want something healthy."

5 He has suffered trauma at the hands of his family, his  
6 mother, his father, his brother, his foster parents. This is  
7 not in dispute. And certainly he will suffer again, of course,  
8 even more at the hands of the system, but we have an opportunity  
9 to make things right. So what do we do?

10 We are asking this Court to sentence him to 15 years, and I  
11 want the Court to understand that treatment is not you get to go  
12 into BOP custody and they start treatment. This treatment, just  
13 like the stuff at BOP in Englewood, is not available until you  
14 get to two to three -- two to three years shy of your release.  
15 So if this Court gives him a 15-year sentence, he still has at  
16 least seven to eight years in custody before he's even eligible  
17 for programming. If he gets a 20-year sentence, you are talking  
18 14 years before he -- well, probably 13 years before he is even  
19 eligible for programming.

20 I am begging this Court to think about the impact treatment  
21 can have on a young man who's in his mid 20s and how we know  
22 that this is the most important time for him; and the sooner we  
23 can get the treatment, frankly, the better. He will have -- if  
24 the Court gives a 15-year sentence, he has done about  
25 three years. He will have at least seven or eight to do before

1 he's even eligible. So he'll work on his GED. He'll work on  
2 getting a job. He'll work on vocational training.

3 But what is the most important part so he gets healthy?  
4 Because everybody in this courtroom wants him to get healthy. I  
5 don't think anyone's going to be disagreeing with me on that.  
6 Everybody wants him healthy. Then let's get it as soon as we  
7 can, and to get it as soon as we can means we have to look at  
8 the 15-year sentence.

9 He's 24 years old. He has done three years in county jail.  
10 He has never had an issue in county jail. He has been  
11 absolutely 150 percent compliant. He has been at three county  
12 jails. He has been -- he has done everything that has been  
13 required of him. He has never deviated or had any sort of  
14 issues with correctional officers, other inmates. He has been a  
15 model inmate. So he can do this.

16 I'm asking this Court to consider let's start the process  
17 of healing him sooner. He will do the seven or eight years as a  
18 consequence, and that is -- that is -- certainly if he hasn't  
19 been deterred in that amount of time, I don't know that we can  
20 save him, but he's worth saving. He's worth saving. He didn't  
21 stand a chance in the foster care system, in the CPS system, but  
22 he stands a chance here because we have a chance to help him.

23 Is he remorseful about what happened to the victims in this  
24 case? Absolutely. These were -- one of them was a family  
25 member. One of them is his brother and his brother's family.

1 Is he remorseful? Absolutely. This has destroyed that  
2 relationship to his brother who opened his home, hands down,  
3 absolutely. He knows he will never have a relationship with his  
4 brother again, and that is devastating to Jaiden.

5 But if we want him to get better because we don't want this  
6 to ever happen again, the time is ripe, and I'm asking this  
7 Court for 15 years. He will be on lifetime supervision, and we  
8 know those conditions are stringent. He, after this case, will  
9 be, we assume -- and I think Ms. Gregoire and I will work on  
10 this probably this afternoon. He will be writ into state  
11 custody where he will then be -- he'll do his change of plea.  
12 He will be sentenced for the conduct that occurred with minor  
13 victim -- his family member. He will be sentenced on that to  
14 run concurrent with this case.

15 So all of that, we hope, will be said and done so that he  
16 will now be on his way to BOP to start the process where he can  
17 begin dealing with the consequences, understanding deterrence,  
18 which I can assure you he does, but also the last piece of this,  
19 which is so important and probably most vital, the treatment  
20 part, but that doesn't happen for at least seven years if the  
21 Court gives a 15-year sentence and 13 if the Court gives 20.

22 So I'm asking the Court to consider the lower sentence in  
23 this case. It is not a small sentence by any stretch of the  
24 imagination, but it is sufficient. It is not greater than  
25 necessary. I am certainly happy to answer any questions.

1           THE COURT: The institution you made reference to is  
2 Deven, D-E-V-O-N?

3           MS. RUBIN: It's actually D-E-V-E-N-S, Your Honor.  
4 It's in Massachusetts, and it's FMC. So I think it's actually  
5 Federal Medical Center, but it is a -- it is a BOP facility.  
6 And my understanding is if it's not all sex offenders, it's  
7 primarily sex offenders.

8           THE COURT: All right. I'm willing to write a letter  
9 to the BOP suggesting that that would be an appropriate  
10 institution, but as we all know, the BOP makes the decision.

11           MS. RUBIN: Sure. We know that, and, obviously,  
12 Mr. Petersen understands it would be a recommendation only.

13           THE COURT: All right. Now, I have the calculations  
14 that I have to go through for the record.

15           MS. RUBIN: Okay.

16           THE COURT: We know that's going to take a few  
17 minutes. I can do that or we can hear from Mr. Petersen first.  
18 It's your call.

19           MS. RUBIN: Do you want me to bring Mr. Petersen up  
20 and then the Court could go through the --

21           THE COURT: Pardon me?

22           MS. RUBIN: I could bring him up. We could go through  
23 the calculations, and then he could give his allocution.

24           THE COURT: Okay.

25           MS. RUBIN: Whatever the Court wants, I'm happy to do.

1           THE COURT: Stay at counsel table, I'll go through the  
2 calculations, and then come on up.

3           MS. RUBIN: Sure.

4           THE COURT: I want to explain to the people in the  
5 courtroom in the federal system, we have guidelines that have  
6 been established by Congress and the Sentencing Commission, and  
7 we always consult the guidelines. They are not mandatory. We  
8 do not -- we're not required to follow them, but we are required  
9 to consult the guidelines and go through the formal calculation  
10 to come up with the sentence that the guidelines recommend.

11          And in this case, it's kind of complicated. It's going to  
12 take a few minutes, but it is required that the Court go through  
13 those calculations. And all federal crimes have a base offense  
14 level that is assigned to the crime, and we always start with  
15 that base offense level, and there can be adjustments up or  
16 down.

17          And in this case we have two counts, Count 1 and Count 2,  
18 and they both charge production of child pornography. Count 1,  
19 the base offense level is 32. There are two points added  
20 because the victims were between the ages of 12 and 16. Two  
21 more points are added because sexual acts were included. Two  
22 more points are added because there was distribution of  
23 material. Two points were added because a computer was used.

24          And then Count 2 is also a production charge. It starts  
25 with a base offense level of 32. Two points are added because



1 the age is between 12 and 16 of one or more of the victims; two  
2 more points, sexual contact was involved. Distribution was  
3 involved for two more points; a computer used, two more points.

4 And those calculations then are grouped together. There's  
5 a process recommended. And since there were two of them, two  
6 more points are added. It comes to a total of 42 points.

7 And then in this case, unfortunately, it involves a sex  
8 crime. The defendant was engaged in a pattern of activity  
9 involving prohibited sexual conduct. The defendant was a repeat  
10 and dangerous sex offender against minors, and those findings --  
11 it's clear those findings result in an additional five points  
12 added for a total of 47.

13 He accepted responsibility. It's reduced by three. And  
14 the result is 43 points, not 44 as the arithmetic would  
15 indicate, but 43 because that's the maximum number of points  
16 that the advisory guidelines use. It doesn't go any higher, and  
17 that sort of says a lot about the seriousness of this offense.

18 So the guideline range is a total of 720 months. That's  
19 60 years. And that result is reached because each of these  
20 counts has a maximum statutory sentence of 30 years, 360 months;  
21 and conceivably, they can be run consecutively, end to end, and  
22 that totals the 720 months. And his criminal history is  
23 Category I.

24 So it's rather obvious that the seriousness of this crime  
25 is taken into account in these guidelines, and the 11(c) (1) (C)

1 plea agreement reached between the parties has an agreed range  
2 that is very, very significantly lower than these guideline  
3 calculations.

4 Now I think it's an appropriate time to hear from  
5 Mr. Petersen.

6 And Mr. Petersen, come on up. Good morning.

7 THE DEFENDANT: Good morning.

8 THE COURT: It's afternoon now. Good afternoon.

9 THE DEFENDANT: Good afternoon. Your Honor, I'd like  
10 to take this time to address the Court and to address my family.  
11 I want to begin by apologizing to everyone in this courtroom,  
12 those who were directly involved and those who were not.

13 I regret that I have hurt my entire family, and I take full  
14 responsibility for my actions. The last thing I would ever want  
15 to do was cause pain or to hurt anyone in my family. I know  
16 that I have done both of those things, and I give my word I'm  
17 going to do everything I can to better myself. I love my  
18 family, which is why this entire situation has been so  
19 difficult.

20 What happened in this case and what happened to the named  
21 victims is not okay. I know this much, but I want to understand  
22 why I did these things. I've spent almost three years in jail,  
23 and what I look forward to most is being able to get the  
24 counseling and treatment to understand the why. During this  
25 time, I have not had any treatment, and I've not had any

1 counseling, and these are probably the two most important parts  
2 of having a successful future, and I want both of these things.

3 I will give every ounce of myself in participating in  
4 programs and educational opportunities because the one thing I  
5 want for myself and the one thing I want for my family is to  
6 come out of this situation healthy. I need the tools, and I  
7 want to learn. There is no programming in any county jail.

8 I've spent time in Spokane, Kittitas, and Yakima. However,  
9 my time was not wasted. I worked hard by relearning core math  
10 skills and with the hope I can get my GED. My sister was kind  
11 enough to send me books, and I began learning French. I focused  
12 some of the time on my artistic skills, and I have probably read  
13 more books in three years than I have in my entire life. I have  
14 read books on everything, and I keep myself busy reading as much  
15 as I can. Even with no programs, I keep myself busy. I wanted  
16 to soak up as much as I can and learn what was available.

17 I also have been trying to address my mental health. I  
18 have struggled with anxiety and depression; and with every move  
19 to a new county jail, it requires me to start over and see the  
20 doctor, working on getting the correct medication and working  
21 towards bettering my mental health. But I do all of these  
22 things because it is important for me and my progress towards  
23 bettering myself.

24 While I'm in custody, I want to take programs and classes  
25 to help me with the problems I face from this case and my

1 struggles. Please note that I know not why I've acted upon  
2 these actions. I want to find out the why and learn how to  
3 address these issues. This will be my biggest goal when I get  
4 into prison and during my time on supervised release.

5 For the first time in a long time, I'm relieved knowing  
6 that I'm finally in a system that wants me -- that wants to help  
7 me versus ignore me. I'm surrounded in a room with people who  
8 all have the same goals for me, addressing the consequences of  
9 my actions but also finding the right path for me to find a  
10 healthy life. Everyone in this room wants me to succeed, and  
11 that feels good. I believe -- I believe I have a good future  
12 ahead of me, and I look forward to work that comes with this. I  
13 want the treatment and the counseling to be able to understand  
14 the decisions I made and understanding the tools I need to live  
15 a healthy life.

16 I want to say how sorry I am to the victims in this case  
17 and my brother Nathan and his family. I know my words may not  
18 be much right now, but I will use this time to be a better  
19 person. I never want to hurt any of you, and I'm so sorry what  
20 has happened. I hope there will be a time when you can forgive  
21 me, but I know that forgiveness must be earned.

22 I want to thank my sister and my mom. Both -- both stood  
23 behind me and supported me in what has been the most difficult  
24 situations in my life. This has never -- they have never judged  
25 me and shown me nothing but love. I'm so thankful for their

1 support, especially my sister Sierra. Her kindness and her  
2 words of encouragement have kept me going and have kept me  
3 strong.

4 Judge Nielsen, I'm asking you with the chance to show this  
5 Court and show my family I have what it takes to be successful.  
6 I'm 24 years old and have been in custody since I was 21. This  
7 has not been an easy journey, but a journey where I continue to  
8 learn more about myself every day. I'm not proud of the things  
9 I've done, but I am hopeful to be a better person.

10 I hope you will consider a 15-year sentence. I will be  
11 about 34 when I get out, and I assure this Court that I will  
12 take the next 10 to 11 years to better myself each and every  
13 day. Thank you.

14 THE COURT: Well, that's well-stated. This is a very,  
15 very sad situation. There's no question about it. The video  
16 from your sister was descriptive of your background, very  
17 unfortunate. You grew up in an environment raised by your  
18 mother. A father figure was basically absent in an environment  
19 of drugs, alcohol, sex, violence, yelling, the lack of  
20 stability, sexual activities, foster homes.

21 There's no question that, Mr. Petersen, you didn't receive  
22 an upbringing that had the advantages that a lot of us have  
23 enjoyed. And, of course, I -- this Court had no part to play in  
24 the negotiations that resulted in this 11(c)(1)(C) agreement,  
25 but I can't help but conclude that the -- first of all, as I'll

1 explain in a minute, the seriousness of this conduct could  
2 easily result in a sentence that's much greater than even the  
3 top end of the guidelines, and I can't help but believe that  
4 your background, your age was influential in resulting in a plea  
5 agreement that could be considered advantageous. Those are  
6 mitigating factors, and they're important.

7 But this, of course, was a very serious series of offenses  
8 that resulted in these two counts of production, and your  
9 conduct will have an adverse effect, psychologically primarily,  
10 on the lives of your victims, and your conduct imposed on them  
11 some of the disadvantages that you suffered through. And your  
12 conduct went on for a long period of time and, as you heard me  
13 say in the calculations, that there was a pattern that kept  
14 repeating itself.

15 There were a number of victims. At least one of them would  
16 be considered a family member. There was a breach of trust. I  
17 don't remember which one it is. There's the type of conduct  
18 that has been charged in state court, multiple victims, and they  
19 were young and very vulnerable. So not only were they victims,  
20 but their family members also are victimized as a result of it.  
21 It's a breach of that family trust. And you accumulated  
22 literally thousands of images, and you -- some of those images,  
23 you created and produced yourself and distributed using the  
24 technology that was available to you.

25 So the Court has taken into account -- must take into

1 account your background, the type of person you are. And I will  
2 add that I know you're remorseful, and I know you want  
3 treatment, and you need treatment, and hopefully you'll get it,  
4 and that's a factor that's taken into account on this sentence.  
5 So the Court has to come up with just punishment, and we take  
6 into account not only your background and the seriousness of the  
7 offense, but the need to protect the public.

8 Crimes of this type oftentimes are committed by people that  
9 have a very high level of recidivism. And I'm not saying that  
10 to suggest that that is what you would do, but there has to be  
11 deterrence not only by you, but there has to be a recognition by  
12 the general public that this kind of conduct is taken by the  
13 public to be extremely serious and hopefully discourage or deter  
14 others from even being tempted to do it.

15 There has to be respect for the law, and, of course, we  
16 always try to avoid disparate treatments. In other words,  
17 individuals that have been found guilty of similar conduct and  
18 are similarly situated should be treated somewhat similarly, and  
19 those guidelines that I talked about are an attempt to reach  
20 that goal. So there has to be just punishment which is  
21 sufficient but not too much.

22 Now, Ms. Rubin, I commend you. You do a fabulous job, and  
23 I know Ms. Challinor and others in your office have worked hard.  
24 But as I indicated, the seriousness of this and the effect on  
25 others and the result of this 11(c)(1)(C) agreement, I feel that

1 the top end of the agreement is a just sentence. It's  
2 sufficient but not more than is necessary. But the impact of  
3 others and the length of time involved and the factors that I've  
4 taken into account, I think, make that an appropriate sentence.

5 So 240 on each count, 1 and 2, to run concurrent, and  
6 that's a -- that's a big variance downward, and I applaud you  
7 and the government for working diligently over the past several  
8 years to work this out and avoid a trial. Supervised release,  
9 life on each of the two to run concurrent. On a finding of --  
10 we waive a fine, no assets, and there are going to be other  
11 monetary requirements.

12 Now, restitution we talked about a few moments ago, and  
13 there's been only one claim so far, and that's \$14,400, and that  
14 will be restitution. There is a requirement for up to 3,000 for  
15 each of the series; that's the Vicky and one of the others.

16 And Ms. Gregoire, you indicated that that's each of the  
17 three at 3,000 a piece, and that's pursuant to the Justice for  
18 Victims Act; is that correct?

19 MS. GREGOIRE: No, Your Honor. That would be an  
20 assessment. This is pursuant to the Amy, Vicky, Andy Act, and  
21 it's -- yes, it's a minimum of \$3,000 for each series victim,  
22 and so the United States is asking just for that minimum and  
23 only for the three that requested it.

24 THE COURT: All right. So that's a total of 9,000,  
25 and that's the AVAA, the abbreviation for that statutory act.



1 So there's 9,000 for those and the 14,000 on the restitution and  
2 waive interest on all of them, and then there is the \$100  
3 special assessment for each of the counts for a total of \$200.

4 Now, there are standard conditions of supervised release  
5 that will apply, Mr. Petersen, and then there are a long list of  
6 special conditions, all of which are set forth in the  
7 presentence report. I think there are a total of 30 of them.

8 I don't see a need to go through each of those here in  
9 court unless you wish to do so, Ms. Rubin, but they're all  
10 spelled out.

11 MS. RUBIN: Your Honor, we've reviewed them, and I  
12 will review them again. I know that -- I'm sorry. We have  
13 reviewed them. I will review them again. I know that  
14 Mr. Petersen will be hopefully housed at the Spokane County jail  
15 so we can address the state issue. So I will make sure to go  
16 visit him and just go through everything again, but we have  
17 already reviewed that with him.

18 THE COURT: I think that's appropriate. Now, in the  
19 plea agreement, there's a reference to forfeiture.

20 MS. RUBIN: There's no objection, Your Honor.

21 THE COURT: And is there an order of forfeiture  
22 prepared? I assume that's for electronic equipment and a thumb  
23 drive and that sort of thing. Oh, here it is. Here it comes.  
24 Any objection, Ms. Rubin?

25 MS. RUBIN: No.

1 THE COURT: I'm signing it.

2 Now, you've waived your right to appeal because the Court  
3 has accepted the plea agreement. I will write a letter to the  
4 BOP suggesting that an appropriate institution would be this  
5 Deven, D-E-V-E-N, and it's in Massachusetts.

6 MS. RUBIN: I think it's Devens, D-E-V-E-N-S.

7 THE COURT: Oh, "S". There's an "S" on the end of it.  
8 Okay. I'll look it up in the book.

9 MS. RUBIN: And if the Court would be willing to  
10 specify that we want him to participate in the residential sex  
11 offender treatment, I think that that's probably the key to  
12 distinguish Devens from some of the other facilities.

13 THE COURT: I will make that reference in the letter.

14 MS. RUBIN: Thank you.

15 THE COURT: And send a copy of it to you.

16 MS. RUBIN: Thank you.

17 THE COURT: Counts 3 and 4, Ms. Gregoire?

18 MS. GREGOIRE: Yes, Your Honor. The United States  
19 moves to dismiss those at this time. And then just before I  
20 forget, the Court previously referenced the JVT. The United  
21 States believes Defendant to be indigent and asks that any fine  
22 pursuant to that be waived.

23 THE COURT: Yes. I so find he is and would waive  
24 that.

25 Is there anything else, Ms. Rubin?

1 MS. RUBIN: Your Honor, I would just simply ask that,  
2 obviously, he get credit for time served. I think he's in  
3 primary federal custody. There shouldn't be an issue, but I  
4 want to make sure he gets credit from the time he came in on his  
5 arrest.

6 THE COURT: He does get credit for time served, and  
7 that will be referred to specifically in the judgment.

8 MS. RUBIN: Thank you.

9 THE COURT: Ms. Knutson?

10 (Off-the-record discussion with court staff.)

11 THE COURT: All right. Well, good to talk to you,  
12 Mr. Petersen. It's a tough time, and I know you're remorseful,  
13 and I took to heart your comments. They were well-stated. It's  
14 not going to be easy for you the next few years, but you do have  
15 the prospect of a good life. I wish you the best.

16 THE DEFENDANT: Thank you.

17 THE COURT: We're in recess.

18 (Court adjourned on June 7, 2023, at 12:26 p.m.)  
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C E R T I F I C A T E

I, ALLISON R. ANDERSON, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Spokane, Washington;

That the foregoing proceedings were taken on the date and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true, and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings;

DATED this 23rd day of August, 2023.



ALLISON R. ANDERSON, RMR, CRR  
Washington CCR No. 2006  
Official Court Reporter  
Spokane, Washington